

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

May 4, 2016

Members Present:

Tim Holmes	President
Phil Barrow	Vice-President
Jim Martin	Secretary
Richard Martin	Member
Brian Alsip	Member

Others Present:

Alex Getchell	Associate Planner
Lynn Gray	Legal Counsel
Joanna Myers	Senior Planner
Julie Spate	Recording Secretary

Call to Order:

Tim Holmes called the meeting to order at 7:00 pm.

Approval of Minutes:

Brian Alsip made a motion to approve the April 6, 2016 minutes. Jim Martin seconded the motion. The members voted to approve the minutes.

Swearing In:

Lynn Gray swore in the audience en masse.

Old Business:

ZB 2016-01 (UV/V) – Johnson County Community Corrections Center

Mr. Holmes introduced the case by explaining that he was not in attendance at the last meeting but had listened to the audio recording and read the minutes so is aware and able to vote. Mr. Holmes asked if the petitioner had any additional information to present since last month's meeting. Ms. Gray stated that based on her legal research, if Mr. Holmes is satisfied that he is fully informed and he has read the information, he is permitted to vote tonight. Mr. Holmes confirmed that he is fully informed. Ms. Gray reviewed the status of the request, as having been continued by the Board to allow the Petitioner to present additional information and the Board to consider new information about the request, as presented. Ms. Gray reminded the Board they will be voting based on the evidence presented at the previous meeting for the petition on file, and if any new information is provided this evening.

David Hittle with Johnson County Planning and Zoning announced no additional information to present. Mr. Hittle stated they have experimented with modified site plans, but they have not been publicly noticed, so they are not to be presented at this meeting. Ms. Gray explained that the county reached

out through staff about proposed alternatives, which required additional variances. Ms. Gray stated the current petition must be addressed first, before considering anything different. Ms. Gray stated the City offered the County the option to withdraw the current petition and resubmit without an additional filing fee but with an additional public notice due to the different variances. Ms. Gray stated the County elected not to exercise this opportunity at this time.

Mr. Holmes asked what impact the approval or disapproval of the current variance would have on any different variances forthcoming. Ms. Gray stated they have options pursuant to the Board's Rules & Procedures. If the request is denied, their first option is to refile, but they cannot do so without asking the Board to reconsider. That process requires the petitioner to file a motion for the Board to reconsider, within 30 days of this action. At that point, it is scheduled for a hearing for the Board to determine if they think there is anything to reconsider, and if so, another hearing would be set. A second option is that they can refile if their petition with changes specifically addressing the denial reasons. Their third option is to file a completely different request. A simple denied petition without any changes would require the Board to reconsider it or it couldn't be heard again for one year. Mr. Alsip asked if the one-year waiting period could be waived by the Board. Ms. Gray said no it cannot be waived, unless the petitioner requests the Board to reconsider the petition with changes that address the reasons for denial.

Mr. Alsip asked the petitioner if the proposed changes were a viable option. Mr. Hittle identified them as in their infancy state and not fully vetted, but potentially they believe they could be workable. Ms. Gray reminded the Board, they will be considering the petition based upon the evidence provided at the public hearing.

A motion was made by Mr. Martin, for the denial of the Use Variance, due to staff recommendation of the deficiency of parking and the general welfare of the public. Mr. Holmes asked Mr. Martin if that is the only deficiency of criteria. Mr. Martin included the size of the building on the lot as a reason for denial. Mr. Martin stated it is a good project, but this the wrong place and that the lot is not big enough for it. Legal Counsel asked Mr. Martin to clarify if his recommendation was based on staff recommendations. Mr. Martin confirmed that it is. A second was made by Phil Barrow. The motion for denial of the use variance passed, 4-1, with Mr. Alsip as the only dissenter.

A motion was made by Mr. Martin, for the denial of the developmental standards variances, due to the general welfare being affected by the proposal. Mr. Martin cited a severe deficiency in the number of parking spaces, and said that it would undoubtedly affect the general welfare of the public, with putting parking onto the City View Apartments, City View Shoppes, and the bank. Mr. Martin also cited the size of the lot as a reason for denial. A second was made by Richard Martin. The motion for denial of the developmental standards variances passed, 4-1, with Mr. Alsip as the only dissenter. Ms. Gray asked if the petitioner had any questions of the board.

Johnson County Commissioner Ron West spoke of their hope to be able to present some proposed changes to their plan this evening. He further commented that parking to take place at City View apartments and shops is only speculation. Mr. West visited the neighboring businesses for their seating capacity with a total of 371 with 91 parking spaces. He went on to review some of what they presented last month and reiterated that they had hoped to get some Board feedback at this meeting on their proposed changes to address the Board's concerns. Ms. Gray reminded that the new information would have required a new petition with a totally different analysis. Mr. West continued on to suggest they had wanted to receive enough input to know if it was worth their time to refile. Ms. Gray suggested

that possibility through staff and others who have reached out but that this forum is not the appropriate place for this. Nor does the Board give advisory opinions. Mr. West asked if they are limited in discussing it with the Board when there is not a petition before them. Ms. Gray confirmed that now that nothing is pending before the Board, conversations can take place with the members.

New Business:

ZB 2016-06 (SE) – Troy & Jennifer Wright

Mr. Holmes and Alex Getchell introduced case ZB 2016-06 (SE), a petition for a special exception per Article 3, Chapter 5, to allow animal boarding/stables. This specific request is for up to four horses. The property is located in the buffer zone. The public notification requirements have been met and is ready for the Board's consideration and action.

Troy and Jennifer Wright identified they were applying for a special exception to the ordinance requesting the ability to have farm animals on their 6.7 acres when the ordinance requires 20 acres. They desire to board four horses on their property for their three sons who show in 4H. They would like to put in three pastures in the backyard area. They would like to enclose the existing structure for four stables and runs out the back and eventually a riding arena on the side.

They explained the general welfare would not be adversely affected. They had letters of recommendation from Ms. Wright's dressage trainer, vet and boarding friend. She has had horses since she was 14 and gives them excellent care. The developmental standards are covered by meeting everything the staff requires per the ordinance. They will follow all the permit requirements. With regards to the zoning ordinance intent, they explained there are large home sites in their area with horses on properties between their property and town, there are train tracks, and lots of corn fields, so they feel they are staying within the general purpose of the area. Mrs. Wright stated they agree with staff's recommendation, that their plan will not substantially interfere with the Comprehensive Plan.

Mr. Holmes asked staff if the Comprehensive Plan differentiates between commercial and private stables. Mr. Getchell, in the Zoning Ordinance, it does not differentiate. Ms. Gray expressed her opinion that the core issue is farm animals vs. domestic animals, for example, dog kennels and boarding wouldn't be a permitted use. Mr. Getchell added, that by being listed as a Special Exception use, the ordinance is allowing the Board to consider.

Mr. Holmes opened the public hearing, by asking if anyone wanted to speak for or against the petition. Resident Carol Kubinski voiced her support of the Wrights and their petition. She lives directly north of the Wrights and has no issue with the horses. Being no other persons wishing to speak, the public hearing was closed.

Rev. Martin asked if the Wrights plan eventually to live at this location. The Wrights assured they do and Mr. Wright is living there now. Mrs. Wright is with the children until they finish school and will move the first week of June. Mr. Barrow asked about any proposed ring lighting, etc. Mrs. Wright said not at this time. Mr. Getchell highlighted a condition recommended by staff that all signage and outdoor lighting conform to the zoning ordinance. Ms. Gray asked Mr. Getchell if staff would support the addition of a condition that a dog kennel and boarding business not permitted. Mr. Getchell confirmed staff's support of the proposed condition.

Mr. Getchell gave staff's recommendation with eight conditions:

Based on the findings, staff recommends approval with the following conditions:

1. A maximum of four (4) horses are permitted on-site at any given time; all other “farm animals”, as defined in the Zoning Ordinance, shall be prohibited.
2. Horse-related competitions of any kind shall be prohibited.
3. Horse trailers stored on the property shall be currently licensed, insured, and operable.
4. Approval of this Special Exception shall run with the petitioners and their immediate heirs.
5. Any expansion, enlargement, or addition of horses shall require Board of Zoning Appeals approval.
6. Where applicable, Improvement Location Permit(s) shall be obtained prior to construction/renovation.
7. All signage and/or outdoor lighting shall conform to Zoning Ordinance Standards.
8. It not be a domestic animal boarding facility.

Mr. Holmes asked the petitioners if these conditions were acceptable and the Wrights agreed they were.

Mr. Alsip moved to approve the case with eight staff recommended conditions. Mr. Barrow seconded. The motion passed unanimously.

ZB 2016-07 (SE) – Joel McCall

Mr. Getchell presented case ZB 2016-07 (SE), a special exception request by Joel McCall at 2141 Holiday Lane. The property is in the Mixed Use Regional Center and Gateway Overlay District. The request is to allow light industrial assembly and distribution (embroidered apparel) and the application and public notification requirements have been met and is ready for the Board’s consideration and action.

David Ellis, commercial real estate broker with Bradley Company, representing Joel McCall in his desire to purchase 2141 Holiday Lane, presented. Mr. McCall, owner of Corporate Shirts Direct, is an online retailer whose embroidery machines plug into standard 110 electrical outlets. Plans include the equipment area, office, restrooms and a small showroom at the front. Mr. McCall presented his background and business. They have seven employees, five of whom are desk jobs and two operate the machines. Only seven cars would be parked outside, no pallets or storage outside, and UPS makes one daily pick up.

Mr. Ellis affirmed the staff report and responded to the criteria:

General Welfare – There proposal would not negatively affect the general welfare.

Developmental Standards – These will be met. No exterior or interior modifications are being made at all at this time and they plan to go through appropriate channels should any modifications arise in the future.

Ordinance Intent – Granting the exception will not be contrary to the general purposes served by the ordinance nor permanently injure any other properties in the same vicinity. The use will be consistent with the character of the zoning district within which it’s located.

Comprehensive Plan – The petitioners feel this business will help improve the owner-mix in this part of town.

Rev. Martin asked about the amount of walk in business. Mr. McCall suggested there would be some foot traffic, maybe one or two individuals a day, but the predominant activity is online. Mr. Barrow asked about any limit on the smallest order possible. Mr. McCall responded that any size order is fine.

Mr. Getchell gave staff recommendation for approval with five conditions:

1. A minimum of fourteen (14) parking spaces, of which at least one (1) space be reserved for disabled persons, shall be maintained on-site, with appropriate pavement markings, per the requirements of the Zoning Ordinance parking standards.
2. Approval of this Special Exception shall run with the petitioner, and not the property.
3. Any expansion or enlargement of the use shall require Board of Zoning Appeals approval.
4. Where applicable, Improvement Location Permit(s) shall be obtained prior to construction/renovation.
5. All signage provided on the property shall require separate review and approval, upon submission of the sign permit applications and associated detailed renderings.

Mr. Ellis confirmed their signage needs will go through the planning office.

Rev. Martin moved for approval of the special exception with staff conditions. Mr. Martin seconded. The motion passed unanimously.

Other:

Adjournment:

There being no further business, the meeting was adjourned at 7:46 pm.

Respectfully submitted this 1st day of June, 2016.

Tim Holmes, President

Jim Martin, Secretary